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from intoxication at the time, and this statute had a penalty of its own, namely, imprisonment for not exceeding five years, whereas the punishment for rape was imprisonment for not exceeding ten years. The New York Court held that, in view of the fact that the two crimes were each covered by a distinct statute, it could not have been the intent of the legislature to make the act of intercourse with the woman rape if she were insensible from drunkenness. So much of the case as hints that at common law such an act was not rape is mere *dictum*.

In the index of the book there is this rather dubious title: "Rape \* \* \* of female under sixteen is", and then a reference to a page on which Section 279 of the Federal Penal Code is discussed. This section provides that anyone having unlawful carnal intercourse with a female under the age of sixteen is punishable by imprisonment. Now, of course, rape upon any female, whether she be under sixteen or over is *rape*, and this is a truism; but what the indexer evidently means is that intercourse with a female under sixteen even with her consent is rape under this section. This is an error, for this section nowhere uses the word rape and does not make such act the crime of rape, but a lesser crime punishable by imprisonment, and not by death. Possibly the indexer may have had in mind statutes like that contained in the New York Penal Law § 2010, making intercourse with a female under eighteen years of age rape in the second degree even though the act of intercourse be consented to.

Section 330 of the Federal Code provides that where there is a conviction of murder in the first degree or of rape, "the jury may qualify their verdict by adding thereto 'without capital punishment' and whenever the jury shall return a verdict qualified as aforesaid, the person convicted shall be sentenced to imprisonment for life." In the famous case of *United States v. Bram*, reported on appeal (1897) 168 U. S. 532, 18 Sup. Ct. 183, where the murder was committed on the high seas and the evidence tending to convict was largely circumstantial, the jury returned such a qualified verdict, and the result was generally approved. If the power to return such a verdict is not abused, such a statute ought to have a most beneficial effect in securing conviction in cases where juries might be reluctant to bring in a verdict that would carry with it the penalty of death.

The book is marred by occasional over-abruptness in style and by some misprints. Thus, it is stated on page 518 that a statute making it criminal to harbor alien prostitutes was held unconstitutional "as a regulation of a matter within the police power reserved to the State and not *without* [within] any power delegated to Congress by the Constitution." A serious practical defect in the book is the absence of a table of cases. On the whole, however, the author has done a commendable piece of work, and one that is certain to be of service to the lawyer whose practice calls him to the Federal criminal bar.

Ralph W. Gifford.

THE MORALS OF MONOPOLY AND COMPETITION. By HOMER BLOSSER REED. Menasha, Wis.: GEORGE BANTA PUB. Co. 1916. pp. v, 143.

UNFAIR COMPETITION. By WILLIAM H. S. STEVENS. Chicago: UNIVERSITY OF CHICAGO PRESS. 1917. pp. xiii, 265.

Two very interesting books dealing with the problems of business competition and its regulation have recently appeared. Professor

Reed's book, "The Morals of Monopoly and Competition" is in the nature of a philosophic and historical study of the evolution of business morality in this country in its relation to the development of industry, in which he has laudably attempted to show judges, in particular, that the morals of competition as practiced by the small business man and upheld by the courts in the past are no longer applicable in this day of combination and monopolies, as they tend to make the capital of the combination the principal element of success. This is, of course, against the public interest. Professor Reed urges that the courts be not so slow to recognize changed conditions and that they use functional or inductive logic as opposed to the syllogistic, being able thereby to formulate new rules to meet the changed state of affairs now reached in the evolution of industry. His illustrations and arguments are based largely on results reached by the courts in cases of public service corporations and the only question in the mind of the present reviewer is whether Professor Reed in his zeal as a student of philosophy and ethics has not gone a little too far in urging that all industrial corporations because of their size or capitalization be bound so closely by those restrictions placed upon public service corporations or businesses which are legally recognized as "affected with a public interest".

Professor Stevens has produced, in his "Unfair Competition", a book which will be exceedingly useful to the student of law and economics, inasmuch as it contains a clear description of those unfair practices which have been so commonly used in building up industrial corporations in the past. In his "Industrial Combinations and Trusts", he was the first to publish a source book of specific documents relating to the various unfair practices of many corporations. However, it was not always easy for the student to separate and define the specific practices outlined in the documents and trade agreements, and understand their significance. But in his more recent book Professor Stevens has named, classified and treated them clearly under twelve main heads, giving specific examples in each case and pointing out the reasons and results which make them uneconomic and hence unfair. He indicates in a convincing style that "the interest of the public lies in securing the best goods at the lowest prices or, translated into other terms, in a competition of productive and/or selling efficiency" free from artificial restraint, and that the Trade Commission and the courts should exercise their power under the Federal Trade Commission and Clayton Acts to prevent those methods which do not constitute a competition of productive and/or selling efficiency. The volume serves its purpose well in showing the economic basis for regarding those methods and practices discussed as unfair.

*Miner W. Tuttle.*

PROBLEMS OF THE WAR. VOL. II. Papers read before The Grotius Society in the Year 1916. London: SWEET & MAXWELL, Ltd. 1917. pp. xxv, 178.

The publication at this time of the papers of The Grotius Society is most fortunate. The events of the last three years have drawn the attention of all thinking men to problems of international relations